IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4552 OF 2006.
IN
FIRST APPEAL NO.415 OF 1991.

Shaikh Isaque Banemia
(since deceased through legal
heir) Shri Ismile Isaque Shaikh & Ors. ...Applicants

Versus

Jamalsha Takia Trust & Ors. ...Respondents

Shri Sugandh Deshmukh for Ms Vinita B Shastry for the Applicants.

Shri Tanaji Mahtugade for the Respondent Nos.1,2 and 3.

Shri B.H.Mehta, A.G.P for the Respondent Nos.9 and 10.

CORAM : ABHAY S.OKA, J.
DATED : 10th December, 2007.

P.C.:

1. The present Civil Application is filed by the legal representatives of the original appellant No.3 to which a Public Trust and its trustees are the respondents. The First Appeal arises out of an order by which a scheme of the Trust was framed under section 50A(1) of the Bombay Public Trusts Act, 1950.

2. The prayer in the present application is for recording a compromise. Perusal of the alleged compromise annexed to the application shows that though a property has been declared as the property of the first respondent Public Trust, by settlement, the

trustees want to concede that a part of the said property declared as the trust property is not the property of the Trust. The trustees have agreed to concede that a part of the trust property is not the trust property and they have agreed to sale the remaining part.

3. On the face of it the said compromise cannot be recorded in pending appeal as the compromise is not in the interests of Public Trust. If the trustees desire to sale the trust property, they have to follow the procedure prescribed by section 36 of the said Act of 1950. Hence, application is rejected.

JUDGE